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7

8 **UNITED STATES DISTRICT COURT**

9 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

10

11 CATALINA YACHTS, INC., a
California Corporation,

12 Plaintiff,

13 v.

14 SHARON DAY, an individual;
15 GERARD DOUGLAS, an individual;
16 and DOES 1 through 10, inclusive,

17 Defendants

18 GERARD DOUGLAS,

19 Plaintiff

20 v.

21 _____
22 Defendant

23 and

24 SHARON DAY,

25 Counterclaim Plaintiff,

26 v.

27 CATALINA YACHTS, INC.,

28

Case No. 2:25-CV-04090-SVW-RAO
Assigned to the Hon. Stephen V.
Wilson

**DEFENDANT/COUNTERCLAIM
PLAINTIFF SHARON DAY'S
NOTICE OF MOTION AND
MEMORANDUM OF POINTS
AND AUTHORITIES IN SUPPORT
OF MOTION FOR PARTIAL
SUMMARY JUDGMENT**

Date: January 26, 2026
Time: 1:30 p.m.
Courtroom 10A

Action Filed: May 7, 2025
Trial Date: February 17, 2026

SHARON DAY'S MOTION FOR PARTIAL
SUMMARY JUDGMENT
2:25-CV-04090

1 a California Corporation,
2 Counterclaim Defendant.
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6 **TO THE COURT, THE PARTIES, AND THEIR ATTORNEYS OF**
7 **RECORD:**

8 **PLEASE TAKE NOTICE** that on January 26, 2026, at 1:30 p.m., or as soon
9 thereafter as the matter may be heard in Courtroom 10A of the above-referenced
10 Court, located at 350 W. First Street, Los Angeles, CA 90012, pursuant to Rule 56,
11 Defendant/Counter-Plaintiff Sharon Day (“Ms. Day” or the “Counter-Plaintiff”) will
12 and hereby does, move this Court for an order granting partial summary judgment in
13 her favor on her request for declaratory relief as more fully set forth herein.

14 Ms. Day, the movant, is the Plaintiff’s longest tenured employee, having risen
15 from the position of an administrative assistant to the president of Catalina over the
16 course of more than five decades. Ms. Day moves for partial summary judgment on
17 the grounds that there is no genuine issue as to any material fact with respect to two
18 discrete partial summary judgment issues, and she is entitled to judgment as a matter
19 of law on those two narrow issues. Specifically, the issues before this Court, that can
20 and should be decided as a matter of law are: (1) whether, setting aside the timing of
21 payment, Ms. Day has earned deferred compensation, based on the terms and
22 provisions of her Bonus Compensation Agreement, affording her a present or future
23 right to payment of her bonus compensation, and (2) whether the subject Bonus
24 Compensation Agreement is ambiguous so as to permit consideration of parol
25 evidence in its interpretation.

26 Sharon Day’s Motion for Partial Summary Judgment (the “Motion”) is based
27 upon this Notice and the concurrently filed Memorandum of Points and Authorities,
28

1 Statement of Uncontroverted Facts, exhibits attached thereto, Appendix of Evidence,
2 [Proposed] Judgment, and all pleadings and files in this matter, and upon such other
3 matters as may be presented to this Court at the time of hearing.

4 The Motion is made following the conference of counsel pursuant to L.R. 7-3
5 which took place on December 5, 2025.

7 DATED: December 22, 2025

SHUMAKER, LOOP & KENDRICK, LLP

8 Steven M. Berman, Esq.

10 By: */s/ Steven M. Berman*

11 Steven M. Berman

12 Attorney for Counter-Plaintiff

SHARON DAY

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This is a narrow Motion for Partial Summary Judgment intended to streamline trial by resolving two narrow legal questions about a decades-old written compensation contract between Catalina Yachts, Inc. (“Catalina”) and its former employee, Sharon Day (“Ms. Day”) called the Bonus Compensation Agreement. That Bonus Compensation Agreement dated November 18, 2002 (the “Agreement”) contracted to pay Ms. Day as follows:

1.1 When Bonus is Earned.

[Ms. Day] shall earn the Bonus if [Ms. Day] continues to work full-time for Catalina until the earlier of: (i) the sale of Catalina; or (ii) seven and one-half (7-1/2) years from the date of execution of this Agreement.

“Sale of Catalina” includes sale of the Butlers’ stock or sale of all of Catalina’s assets.

...

1.4 Minimum Bonus.

... The Bonus paid to [Ms. Day] shall be no less than one million (\$1,000,000).

The Agreement is unambiguous as to the issue of Ms. Day's entitlement to a bonus representing deferred compensation equal to five percent of the assets of the company with a minimum compensation of \$1,000,000. Even Catalina has admitted that on deposition. Substantial assets of Catalina have already been sold, and the Bonus due will be in excess of the contractual minimum. Ms. Day worked for Catalina

1 continuously from the execution of the Agreement until her retirement in 2024.
2 Accordingly, Ms. Day's right to a bonus vested on or about May 18, 2010.
3

4 After addressing the first partial summary judgment issue of entitlement, this
5 Court will then have to tackle the question of when must the Bonus be paid.
6 Unfortunately, the Agreement drafted by Catalina, contains multiple provisions
7 regarding the timing of payment, not entitlement, that pull in different directions,
8 including definitions and conditions that interact imperfectly across scenarios
9 involving a stock sale versus an asset sale, valuation in the absence of a sale, and the
10 respective obligations of Catalina and the Butler family trusts and their trustees.
11 Those drafting features render the Agreement reasonably susceptible to more than
12 one interpretation, which, under California law, is sufficient to establish ambiguity
13 as a matter of law. Catalina's interpretation would allow it to indefinitely put off
14 payment and effectively evade paying Ms. Day's Bonus indefinitely so long as no
15 stock sale occurs, a result that conflicts with the Agreement's structure, contradicts
16 statements made by Catalina acknowledging the obligation owed, and frustrates the
17 parties' intent in entering into the Agreement.
18

19 The Contract is unambiguous as it relates to Ms. Day's entitlement to payment
20 as she meets all qualifications based upon her fifty-plus year tenure with Catalina,
21 but is nonetheless ambiguous as it relates to the timing of the payment of Ms. Day's
22 deferred compensation. The undisputed record establishes that: (i) the written
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1 Agreement exists and was executed by Ms. Day and Catalina through its President,
2 Frank Butler and his wife Jean Butler on or about November 18, 2002; (ii) Ms. Day
3 fully performed, and her right to the Bonus vested not later than 7.5 years from
4 execution as she retired on or about December 2024, having worked for Catalina
5 without interruption for more than five decades; and (iii) Catalina's representatives
6 acknowledged, under oath, Catalina's obligation to pay Ms. Day pursuant to the
7 Agreement. These uncontested facts establish Catalina's obligation to pay Ms.
8 Day her deferred compensation under the Agreement, leaving for later proceedings
9 only the timing of payment and any amount disputes the parties may raise.

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12 **II. STATEMENT OF FACTS**

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15 The parties do not dispute the existence of a valid and enforceable contract.
16 [Uncontested Material Fact ("UMF") No. 1.]. On or about November 18, 2002,
17 Ms. Day, Catalina, Frank Butler (as President and individually), and Jean Butler
18 (individually) executed the Agreement. [UMF No. 2.]. The Agreement states that
19 Ms. Day "shall earn the Bonus if [she] continues to work full-time for Catalina until
20 the earlier of: (i) the sale of Catalina; or (ii) seven and one-half (7-1/2) years from
21 the date of execution of this Agreement," and defines "Sale of Catalina" to include
22 "sale of the Butlers' stock or sale of all of Catalina's assets." [UMF No. 3].
23 Elsewhere, the Agreement states that Catalina will pay the Bonus within 60 days of
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1 “payment to the Butlers of the consideration they are to be paid for their shares” and
2 contemplates periodic payments for the “Butlers’ Catalina shares.” [UMF No. 4].
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4 “Bonus” is “additional compensation equal to five percent (5%) of the: (i) net sales
5 price; or (ii) value of Catalina, whichever is appropriate,” with a “Minimum Bonus”
6 of “no less than one million (\$1,000,000)” “if all conditions of [the] Agreement are
7 satisfied.” [UMF No. 5].
8

9 It is beyond peradventure that Ms. Day worked for Catalina continuously from
10 the execution of the Agreement until her retirement in 2024. [UMF No. 6].
11 Accordingly, Ms. Day’s right to a bonus vested on or about May 18, 2010. [UMF
12 No. 7]. Catalina testified that “for sure [Ms. Day has] reached [the Agreement’s
13 ‘when bonus is earned’ requirements] because she worked over the seven and a half
14 years...” [UMF No. 8]. The first sale of assets occurred in November 2020, when
15 Catalina sold certain property located in Pinellas County, Florida, to Generation
16 Church of Tampa Bay, Inc. for approximately \$1,000,000.00 (the “First Sale”).
17 [UMF No. 9]. The second sale of assets occurred in July 2024, when Catalina, for
18 no consideration, transferred certain property located in Pinellas County, Florida, to
19 Catalina Investments, LLC, a newly created entity controlled by the shareholders of
20 Catalina, who then sold that property to Prometheus Maritime Properties for
21 approximately \$12,500,000.00, without using any of the sale proceeds to support
22 necessary operations and without providing for payment to outstanding creditors
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1 including Ms. Day (the “Second Sale”). [UMF No. 10]. The third sale of assets
2 occurred in April 2025, when Catalina entered into an Asset Purchase Agreement
3 (the “APA”) with Michael Reardon (the “Buyer”) for the sale of Catalina’s assets in
4 exchange for a \$1,000,000.00 promissory note and the assumption of approximately
5 \$1,425,000.00 in liabilities. [UMF No. 11]. The APA provided that the Buyer “does
6 not assume any liability under any agreements between [Catalina] and Sharon Day,”
7 reflecting Catalina’s retention of the obligation. [UMF No. 12]. The Buyer declared
8 that, prior to consummation of the transaction, “Mr. Berney and [Catalina’s
9 President] told me clearly Catalina was aware of and would pay the obligation to Ms.
10 Day and that [the Buyer] would not be responsible for it.” [UMF No. 13]. So,
11 between the First Sale for \$1,000,000.00, the Second Sale for \$12,500,000.00, and
12 the Third Sale for \$2,425,000.00 in assumption of liabilities and a note payable,
13 Catalina has had asset sales totaling \$15,925,000.00 since the Agreement was
14 executed and Ms. Day earned her deferred compensation.
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17 As noted above, Catalina testified that “for sure [Ms. Day has] reached [the
18 Agreement’s ‘when bonus is earned’ requirements] because she worked over the
19 seven and a half years...” [UMF No. 8]. Catalina also testified that “the way [the
20 Agreement] is written up is a little unclear in certain areas.” [UMF No. 14]. Catalina
21 further testified that in a scenario where Catalina sells its assets without the Butlers
22 selling their shares, the timing of Ms. Day’s Bonus payment is “part of the confusing
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1 part about the document.” [UMF No. 15].
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III. LEGAL STANDARD

5 Under Federal Rule of Civil Procedure 56, a court shall grant summary
6 judgment where there is “no genuine issue as to any material fact and the movant
7 party is entitled to judgment as a matter of law.” Contract ambiguity is a question of
8 law for the Court and may be resolved on summary judgment. *See Southern*
9 *California Ga Co. v. City of Santa Ana*, 336 F.3d 885, 889 (9th Cir. 2003)
10 (“Ambiguity is a question of law for the court.”). A provision is ambiguous when it
11 is capable of two or more constructions that are both reasonable. *Seoul*
12 *Semiconductor Co., Ltd. v. Finelite, Inc.*, 694 F. Supp. 3d 1199, 1208-09 (N.D. Cal.
13 2023). Determining whether parol evidence is admissible is a two-step process: first,
14 a court provisionally receives all credible evidence regarding the parties’ intentions
15 to determine whether the language is reasonably susceptible to an interpretation
16 urged by a party, and if it is reasonably susceptible, the extrinsic evidence is admitted
17 to aid in interpreting the contract. *Id.* at 1209.
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IV. ARGUMENT

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24 a. **The Agreement, as to entitlement to the deferred compensation, is**
clear and Ms. Day unquestionably is due her compensation.

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26 Even accepting ambiguity in certain payment and timing mechanics, the
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1 undisputed facts establish Catalina's present or future obligation to pay the Bonus to
2 Ms. Day under the Agreement. Here, the record undisputedly shows: (1) the
3 existence of a valid written contract; (2) performance and vesting; and (3) Catalina's
4 retention and acknowledgement of the obligation.

5 The Agreement was executed by Ms. Day, Frank Butler, Jean Butler, and
6 Catalina, and Catalina's own filing attaches the Agreement. [UMF No. 2]. The
7 Agreement states that Ms. Day "shall earn the Bonus" if she works full-time until the
8 earlier of a "Sale of Catalina" or 7.5 years from execution. [UMF No. 3]. It is
9 undisputed that Ms. Day satisfied the 7.5-year requirement in 2010. [UMF Nos. 6,
10 7, and 8]. Accordingly, at minimum, her right to a bonus vested by that time.
11 Catalina's testimony confirms this conclusion: "for sure [Ms. Day has] reached [the
12 Agreement's 'when bonus is earned' requirements] because she worked over the
13 seven and a half years..." [UMF No. 8].

14 Furthermore, the APA expressly provided that the Buyer "does not assume any
15 liability under any agreements between [Catalina] and Sharon Day," thereby
16 confirming Catalina's retention of Ms. Day's contractual rights and corresponding
17 liabilities. [UMF No. 12]. Additionally, the Buyer declared that, prior to
18 consummation of the transaction, "Mr. Berney and [Catalina's President] told me
19 clearly Catalina was aware of and would pay the obligation to Ms. Day and that [the
20 Buyer] would not be responsible for it." [UMF No. 13].

1
2 b. **The Agreement, as to the timing of payment, is ambiguous as a matter**
3 **of law.**

4 The Agreement's text is reasonably susceptible to more than one interpretation
5 on material issues, including, but not limited to: (i) which event or events trigger(s)
6 Catalina's obligation to pay in the context of an asset sale; (ii) how a "Sale of
7 Catalina," expressly defined to include a sale of all assets, operates alongside
8 provisions that elsewhere tie the timing of payment to the Butlers' receipt of
9 consideration for their "shares"; and (iii) whether, and in what manner, the
10 "Minimum Bonus" applies across different timing and valuation frameworks in
11 stock-sale versus asset-sale scenarios. These provisions overlap and do not cohere
12 into a single, unambiguous contractual scheme.

13 First, the Agreement provides that Ms. Day "shall earn the Bonus" upon the
14 occurrence of either a "Sale of Catalina" or 7.5 years of continued employment, and
15 it expressly defines "Sale of Catalina" to include "sale of all of Catalina's assets."
16 [UMF No. 3]. At the same time, however, the Agreement's payment mechanics
17 elsewhere speak in terms of payment within 60 days of "payment to the Butlers of
18 the consideration they are to be paid for their shares" and periodic payments for the
19 "Butlers' Catalina shares." [UMF No. 4]. Those provisions presume stock-sale
20 consideration flows directly to the Butlers, not to the corporation, and they do not
21 squarely address an asset sale in which consideration is paid to the corporation itself,
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1 not the Butlers.

2 Second, the Agreement’s “Minimum Bonus” of “no less than one million
3 (\$1,000,000)” applies “if all conditions of [the Agreement] are satisfied,” but the
4 Agreement does not specify whether that minimum attaches upon vesting by time
5 (7.5 years), upon a qualifying “Sale of Catalina,” or both, nor how to reconcile the
6 minimum with the stock-focused timing language when the defined “Sale of
7 Catalina” occurs via an asset sale transaction. [UMF No. 5].

8 Finally, Catalina, through its corporate representative and current President,
9 Marc Reese, admitted that the Agreement, solely as it relates to the timing of
10 payment, is “unclear” and “confusing.” [UMF Nos. 14, 15]. California law deems
11 a contract ambiguous where it is reasonably susceptible to more than one
12 interpretation. *Seoul Semiconductor*, 694 F. Supp. 3d at 1208-09. The Agreement
13 here satisfies that standard. Resolving how the parties intended these provisions to
14 operate—particularly across sale structures—will require parol evidence and is for
15 trial. This Court should grant summary adjudication that the Agreement is
16 ambiguous.

1 **V. PRAYER FOR RELIEF**

2 Sharon Day respectfully requests that this Court enter an order:

3 1. Granting partial summary judgment that Catalina Yachts, Inc. presently
4 owes Sharon Day a bonus under the Bonus Compensation Agreement, with all issues
5 concerning the timing of payment expressly reserved;

6 2. Granting partial summary judgment that the Bonus Compensation
7 Agreement dated November 18, 2002, is ambiguous as a matter of law;

8 3. Preserving all unresolved issues for trial; and

9 4. Awarding such other and further relief as this Court deems just and
10 proper.

11 Dated: December 22, 2025

12 SHUMAKER, LOOP & KENDRICK,
13 LLP

14 Steven M. Berman

15 By: /s/ Steven M. Berman

16 Steven M. Berman

17 Attorney for SHARON DAY

18 **CERTIFICATE OF COMPLIANCE**

19 The undersigned counsel for Sharon Day certifies that this brief contains 2,142
20 words, which:

21 complies with the word limit of L.R. 11-6.1.

22 complies with the word limit set by court order dated _____.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on December 22, 2025, a true and correct copy of the foregoing was served via CM/ECF on all counsel of record who are registered CM/ECF users and via electronic mail on Michael C. Lieb, mlieb@ecjlaw.com, and Zoe M. Vallier, zvallier@ecjlaw.co, counsel for Catalina Yachts, Inc.; Daniel A. Kaplan, dkaplan@danielkaplanlaw.com, and Aaron D. Sadock, asadock@panakoslaw.com, counsel for Gerard Douglas; Bonnie McKnight, bmcknight@panakoslaw.com, and Carly Totah, ct@danielkaplanlaw.com, counsel for Gerard Douglas.

December 22, 2025

/s/ Steven M. Berman
Steven M. Berman